

United States Senate

WASHINGTON, DC 20510

March 25, 2014

The Honorable Thomas E. Perez
Secretary of Labor
U.S. Department of Labor
200 Constitution Ave., NW
Washington, D.C. 20210

Dear Secretary Perez:

Thank you for your work to keep America's miners and communities safe. We have been following closely the recent events at the U.S. Department of Energy's (DOE) Waste Isolation Pilot Plant (WIPP) in Carlsbad, New Mexico. There was a fire in the mine on February 5th and a release of radioactive material on February 14th.

The DOE recently released a report from its Accident Investigation Board (AIB) on the cause of the fire. That report notes the WIPP Land Withdrawal Act and a Memorandum of Understanding between the DOE and the U.S. Department of Labor (dated July 1987) state that the Mine Safety and Health Administration (MSHA) shall inspect WIPP not less than four times each year and in the same manner as it evaluates mine sites under the Federal Mine Safety and Health Act of 1977. Records from the report indicate that MSHA has only performed inspections two times over the last three years.

The WIPP facility is a unique mining environment, storing transuranic waste from our nation's weapons complex in a specialized salt mine over 2,000 feet underground. The AIB reported that:

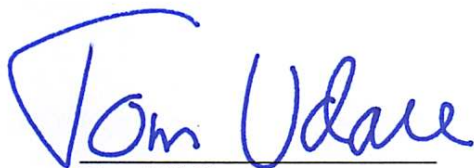
The WIPP facility needs to embrace its dual nature of being a mine as well as a Hazard Category 2 Facility. As such, WIPP has two distinct requirement sets, MSHA and DOE O 420.1C. Both of these have fire protection program requirements that must be met. There is a common misconception that MSHA is the only program requirements for underground operations. Both sets of requirements must be met and any deviation fully addressed.

We would appreciate a better understanding of the factors that led to the apparently missed inspections by MSHA, and a summary of the findings of recent inspections that MSHA did complete. Additionally, we would appreciate a fuller understanding of any response to the events at WIPP that MSHA is preparing to ensure that such an accident does not occur again. Finally, we also seek assurance that MSHA staff will be available at WIPP throughout the recovery process to ensure safety of the investigations, remediation, and future re-opening of WIPP, and that in the future all inspection requirements will be strictly adhered to. The health and safety of the workers at WIPP and the surrounding community are our top priorities and it is

extremely concerning to learn that a fire in the mining portion of WIPP was a preventable circumstance.

We would appreciate a response to this letter and if you have any questions please do not hesitate to contact us.

Sincerely,



Tom Udall
United States Senator



Martin Heinrich
United States Senator